

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 14 BUSINESSES, BY ADDING ARTICLE V MOBILE FOOD VENDING, SECTIONS 14-136 TO 14-140, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES

WHEREAS, the Town of Gilbert has a responsibility to ensure the health and safety of town residents;

NOW THEREFORE, BE IT ORDAINED by the Common Council of the Town of Gilbert, Arizona, as follows:

Section I. In General.

The Code of Gilbert, Arizona, Chapter 14 Businesses, is amended by adding Article V Mobile Food Vending, sections 14-136 to 14-140 to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

SEC. 14-136. DEFINITIONS.

THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

GOODS OR MERCHANDISE INCLUDES ITEMS AND PRODUCTS OF EVERY KIND AND DESCRIPTION, INCLUDING ALL FOODS, PRODUCE AND BEVERAGE ITEMS.

HUMAN POWERED FOOD VENDING VEHICLES SHALL MEAN ANY DEVICE MOVED BY HUMAN POWER INCLUDING, BUT NOT NECESSARILY LIMITED TO, ANY PUSH CART, WAGON, BICYCLE, TRICYCLE, GROCERY CART, OR OTHER WHEELED CONTAINER OR CONVEYANCE.

ICE CREAM TRUCK SHALL MEAN EVERY MOTOR VEHICLE, AS THAT TERM IS DEFINED IN THE ARIZONA REVISED STATUTES IN WHICH IS EQUIPPED OR PRIMARILY USED FOR THE RETAIL SALES OF ICE CREAM ON ANY PUBLIC STREET, ALLEY, OR HIGHWAY, OR PRIVATE STREET, OR ALLEY WITHIN THE TOWN.

FOOD VENDING VEHICLE SHALL MEAN ANY VEHICLE, AS THAT TERM IS DEFINED IN THE ARIZONA REVISED STATUTES, WHICH IS EQUIPPED OR PRIMARILY USED FOR RETAIL SALES OF FRUITS, VEGETABLES, OR PRODUCE, AND/OR PREPARED, PRE-PACKAGED, OR UNPREPARED, UNPACKAGED FOOD OR BEVERAGE OF ANY KIND ON ANY PUBLIC OR PRIVATE STREET, ALLEY, HIGHWAY, OR PROPERTY WITHIN THE TOWN. THE INVENTORY OF THESE VEHICLES IS NOT NECESSARILY LIMITED TO EDIBLE ITEMS AND MAY INCLUDE NON-FOOD SUNDRIES. A HUMAN POWERED FOOD VENDING VEHICLE IS NOT A FOOD VENDING VEHICLE.

MOBILE FOOD VENDOR SHALL MEAN ANY PERSON, AS DEFINED IN THIS CHAPTER, WHO:

- (1) OWNS, CONTROLS, MANAGES, AND/OR LEASES A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE; OR
- (2) CONTRACTS WITH A PERSON(S) TO DRIVE, OPERATE, PREPARE FOODS, AND/OR VEND FROM A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

OPERATOR AS USED IN THIS CHAPTER SHALL MEAN ANY PERSON WHO DRIVES, OPERATES, PREPARES FOODS, AND/OR VENDS FROM A FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

SEC. 14-137. BUSINESS LICENSE.

(a) *REQUIRED.* IT IS UNLAWFUL FOR ANY MOBILE FOOD VENDOR TO CONDUCT BUSINESS WITHOUT FIRST OBTAINING AND MAINTAINING IN EFFECT A BUSINESS LICENSE PURSUANT TO THIS CHAPTER. A SEPARATE LICENSE IS REQUIRED FOR EACH FOOD VENDING VEHICLE, ICE CREAM TRUCK, OR HUMAN POWERED FOOD VENDING VEHICLE.

(b) *APPLICATION.* IN ADDITION TO THE REQUIREMENTS SET FORTH IN SECTION 14-38, APPLICANTS FOR A LICENSE SHALL FILE WITH THE DEVELOPMENT SERVICES DIRECTOR THE FOLLOWING INFORMATION:

- (1) A DESCRIPTION OF THE GOODS TO BE SOLD.

- (2) IF APPLICANT IS AN EMPLOYEE OR AGENT OF THE BUSINESS FOR WHICH THE LICENSE WILL BE ISSUED, THE NAME AND ADDRESS OF THE EMPLOYEE OR AGENT, IF DIFFERENT FROM THE BUSINESS ADDRESS, TOGETHER WITH CREDENTIALS ESTABLISHING THE EXACT RELATIONSHIPS WITH THE MOBILE FOOD VENDOR.
- (3) IF A VEHICLE IS TO BE USED, A DESCRIPTION AND PHOTOGRAPH OF THE VEHICLE MUST BE SUBMITTED, TOGETHER WITH THE LICENSE NUMBER OR OTHER MEANS OF IDENTIFICATION.
- (4) IF THE APPLICANT INTENDS TO OPERATE ON TOWN PROPERTY OR IN THE RIGHT-OF-WAY, A STATEMENT AS TO WHETHER THE APPLICANT HAS BEEN CONVICTED OF ANY FELONY AND THE NATURE OF THE OFFENSE.
- (5) THE LOCATION(S) FROM WHICH THE APPLICANT INTENDS TO CONDUCT BUSINESS AND A PERMANENT ADDRESS TO WHICH NOTIFICATIONS MAY BE SENT.
- (6) THE FULL NAME OF THE PERSON AND ANY OTHER NAMES USED DURING THE PREVIOUS FIVE YEARS.
- (7) PROOF OF THE PERSON'S AGE, SUCH AS A DRIVER'S LICENSE, PASSPORT OR BIRTH CERTIFICATE COUPLED WITH A GOVERNMENTAL PHOTO IDENTIFICATION DOCUMENT.
- (8) A COMPLETED GOOD NEIGHBOR POLICY FORM PROVIDED BY THE DEVELOPMENT SERVICES DEPARTMENT.
- (c) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS ARTICLE, A MOBILE FOOD VENDOR WHO CONDUCTS BUSINESS FROM A VEHICLE SHALL PROVIDE PROOF OF VEHICLE LIABILITY INSURANCE WHICH SHALL BE MAINTAINED DURING THE TERM OF THE LICENSE AND SHALL BE IN AT LEAST THE MINIMUM AMOUNT REQUIRED BY LAW.

SEC. 14-138. LOCATION.

- (a) SALES BY MOBILE FOOD VENDORS MAY BE CONDUCTED ON A SURFACE THAT MEETS THE REQUIREMENTS OF SECTIONS 30-62, 30-63 OF THE CODE.

(b) IT IS UNLAWFUL FOR ANY LICENSEE UNDER THIS ARTICLE TO CONDUCT BUSINESS:

(1) ON TOWN PROPERTY OR PUBLIC RIGHT-OF-WAY WITHOUT A WRITTEN AGREEMENT OR PERMIT. EXCEPTION: OPERATORS OF ICE CREAM TRUCKS OR HUMAN POWERED FOOD VENDING VEHICLES MAY CONDUCT BUSINESS IN THE PUBLIC RIGHT-OF-WAY FOR NO MORE THAN TEN MINUTES AT A TIME IN ANY ONE LOCATION.

(2) WITHIN A PUBLIC PARK UNLESS THE LICENSEE HAS OBTAINED A PERMIT FROM THE PARKS AND RECREATION DIRECTOR.

(3) IN ANY CONGESTED AREA WHERE THE BUSINESS MIGHT IMPEDE OR INCONVENIENCE THE PUBLIC AND, FOR THE PURPOSES OF THIS SECTION, THE JUDGMENT OF A POLICE OFFICER, EXERCISED IN GOOD FAITH, SHALL BE DEEMED CONCLUSIVE AS TO WHETHER THE AREA IS CONGESTED OR THE PUBLIC IMPEDED OR INCONVENIENCED.

(4) WITHOUT WRITTEN PERMISSION OF THE PROPERTY OWNER FOR USE OF THE PROPERTY, WHICH WRITTEN PERMISSION SHALL BE CARRIED WHEN CONDUCTING SUCH BUSINESS.

(5) WITHOUT HAVING FIRST OBTAINED ALL REQUIRED COUNTY OR TOWN PERMITS.

SEC. 14-139. MISCELLANEOUS.

(a) SIGNAGE ATTACHED TO A MOBILE FOOD VENDING VEHICLE SHALL NOT REQUIRE A SIGN PERMIT.

(b) THE PARKING OF A LICENSED AND OPERATIONAL VEHICLE SHALL NOT EXCEED NINETY-SIX (96) CONSECUTIVE HOURS AT THE SAME LOCATION.

(c) VENDORS/OPERATORS OF FOOD VENDING VEHICLE SHALL ARRANGE FOR APPROPRIATE TRASH RECEPTACLES DURING OPERATIONS AND SHALL KEEP THE AREA SURROUNDING THE MOBILE FOOD VENDING VEHICLE FREE OF DEBRIS, LITTER AND WASTE.

(d) VENDORS/OPERATORS SHALL NOT USE TOWN TRASH RECEPTACLES TO DISPOSE OF WASTE UNLESS TOWN DISPOSAL SERVICE HAS BEEN PAID FOR.

(e) FOOD VENDING VEHICLES IN OPERATION WITHOUT A GILBERT FIRE DEPARTMENT APPROVED FIRE SUPPRESSION SYSTEM MUST MAINTAIN A TEN (10) FOOT SEPARATION BETWEEN MOBILE FOOD VENDING VEHICLES (BUMPER TO BUMPER, SIDE TO SIDE), ALL STRUCTURES, AND PROPERTY LINES.

SEC. 14-140. CIVIL SANCTIONS.

ANY PERSON FOUND RESPONSIBLE FOR VIOLATING THIS SECTION SHALL BE SUBJECT TO THE CIVIL SANCTION AND HABITUAL OFFENDER PROVISIONS SET FORTH IN SECTION 1-5 OF THE GILBERT MUNICIPAL CODE.

SECTION II. PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES.

ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE OR ANY PART OF THE CODE ADOPTED HEREIN BY REFERENCE, ARE HEREBY REPEALED.

SECTION III. PROVIDING FOR SEVERABILITY.

IF ANY SECTION, SUBSECTION, SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ORDINANCE OR ANY PART OF THE CODE ADOPTED HEREIN BY REFERENCE, IS FOR ANY REASON HELD TO BE INVALID OR UNCONSTITUTIONAL BY THE DECISION OF ANY COURT OF COMPETENT JURISDICTION, SUCH DECISION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS THEREOF.

PASSED AND ADOPTED by the Common Council of the Town of Gilbert, Arizona, this ____ day of _____, 201_, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

Ordinance No. _____

Page ____ of ____

APPROVED this ____ day of _____, 201_.

John W. Lewis, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

L. Michael Hamblin
Town Attorney

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE
AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE
COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ____ DAY OF
_____, 201_, WAS POSTED IN FOUR PLACES ON THE ____ DAY OF
_____, 201_.

Catherine A. Templeton, Town Clerk

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Page ____ of ____

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(1) ON TOWN PROPERTY OR PUBLIC RIGHT-OF-WAY WITHOUT A WRITTEN AGREEMENT OR PERMIT. EXCEPTION: OPERATORS OF ICE CREAM TRUCKS OR HUMAN POWERED FOOD VENDING VEHICLES MAY CONDUCT BUSINESS IN THE PUBLIC RIGHT-OF-WAY FOR NO MORE THAN TEN MINUTES AT A TIME IN ANY ONE LOCATION.

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SEC. 14-139. UNLAWFUL NOISE.

NO LICENSEE, NOR ANY PERSON IN HIS BEHALF, SHALL SHOUT, MAKE ANY NOISE, CRY OUT, BLOW A HORN, RING A BELL OR USE ANY SOUND DEVICE, INCLUDING ANY LOUD SPEAKING, RADIO OR SOUND AMPLIFYING SYSTEM UPON ANY OF THE STREETS, ALLEYS, PARKS AND OTHER PUBLIC PLACES OF THE TOWN OR UPON ANY PRIVATE PREMISES OF THE TOWN WHERE SOUND OF SUFFICIENT VOLUME IS EMITTED OR PRODUCED THEREFROM SO AS TO VIOLATE SECTION 42-61.

SEC. 14-140. MISCELLANEOUS.

(a) SIGNAGE ATTACHED TO A MOBILE FOOD VENDING VEHICLE SHALL NOT REQUIRE A SIGN PERMIT.

(b) THE PARKING OF A LICENSED AND OPERATIONAL VEHICLE SHALL NOT EXCEED NINETY-SIX (96) CONSECUTIVE HOURS AT THE SAME LOCATION.

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Council Communication

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JUSTINE BRUNO, MANAGEMENT INTERN, 480-503-6917

THROUGH: GABRIEL ENGELAND, ASSISTANT TO THE TOWN MANAGER, 480-503-6758
MARC SKOCYPEC, DEPUTY TOWN MANAGER

MEETING DATE: JANUARY 30, 2014

SUBJECT: APPROVAL OF MOBILE FOOD VENDING LICENSE AND MOBILE FOOD VENDING LICENSE FEES

STRATEGIC INITIATIVE: Economic Development

This ordinance provides regulation that will better address mobile food vending within the Town. These amendments support business activity by eliminating nonessential restrictions and encouraging the growth of this industry in a safe and thoughtful manner.

LEGAL REVIEW

☒ Complete

☐ N/A

FINANCIAL REVIEW

☒ Complete

☐ N/A

RECOMMENDED MOTION

A MOTION TO:

- A) ADOPT AN ORDINANCE AMENDING THE GILBERT MUNICIPAL CODE, CHAPTER 14 BUSINESSES, BY ADDING ARTICLE V MOBILE FOOD VENDING, SECTIONS 14-136 TO 14-141, AND**
- B) ADOPT A RESOLUTION ESTABLISHING THE LICENSE FEE FOR MOBILE FOOD VENDING.**

BACKGROUND/DISCUSSION

The Code of Gilbert, Chapter 14 Businesses, permits mobile food vending through the existing Transient Merchant policy; however, the current code fails to address the vital aspects of food truck operations and places unnecessary restrictions on vendors. As the food truck industry has expanded its presence in Gilbert, the need to revise existing regulations has become apparent. It is the intent of this amendment to clarify and specify the regulations governing mobile food vending.

In an effort to formulate clear and thoughtful policy, staff assembled an internal working group and met regularly with an external stakeholder group, to research this growing industry and the regulations used in surrounding and national peer municipalities. Through this research, staff developed a summary of proposed recommendations pertaining to food truck operations in Gilbert. These recommendations were communicated to an external focus group that was able to provide feedback and recommendations to staff. Adopting this amendment will help Gilbert remain conducive to this type of business activity, while maintaining an environment that is harmonious for small business and citizens alike.

Key components of the amendments include:

- Defining this form of business activity and the type of sales permitted with a mobile food vending license.
- Lessening restrictions on the location and hours of operation.
- Addressing waste disposal, dust, permitted signage, and ambient noise levels.
- Providing protections for town property, public property, and public parks/open space.
- Specifying the required fire code provisions for this activity, and encouraging safe operation
- Establishing the licensing procedures and appropriate fees for this business activity.

The Ordinance was reviewed for form by Attorney Michael Hamblin.

FINANCIAL IMPACT

The proposed amendments are not anticipated to have a significant financial impact on the Town. The license fees are intended to recoup the staff time expended by processing the mobile food vending license applications and conducting the necessary inspections.

The financial impact was reviewed by Laura Lorenzen, Management Support Analyst.

STAFF RECOMMENDATION

Town staff recommends adoption of the amendments to the Gilbert Municipal Code, Chapter 14 Businesses, and the adoption of the resolution establishing the license fee for mobile food vending.

Respectfully submitted,

Justine Bruno
Management Intern

Attachments and Enclosures:

Ordinance Amending the Code of Gilbert, Arizona, Chapter 14 Businesses, by adding Article V Mobile Food Vending, Sections 14-136 to 14-141;

Gilbert Fire Department Regulation 2012-023 Mobile Food Units;

Ordinance No. 2151 - Air Quality Standards;

and Public Notice of New Fee - Mobile Food Vending License Fee.

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Ordinance No. _____
Page ____ of ____

PASSED AND ADOPTED by the Common Council of the Town of Gilbert,
Arizona, this ____ day of _____, 201_, by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 201_.

John W. Lewis, Mayor

ATTEST:

Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:

L. Michael Hamblin
Town Attorney

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE
AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE
COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ____ DAY OF
_____, 201_, WAS POSTED IN FOUR PLACES ON THE ____ DAY OF
_____, 201_.

Catherine A. Templeton, Town Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, ESTABLISHING BUSINESS LICENSE AND PERMIT FEE FOR MOBILE FOOD VENDING AND TERMS; AND PROVIDING FOR SEVERABILITY.

WHEREAS the Town Council is authorized to establish business licenses and permit fees for services provided by the Town;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Town of Gilbert, Arizona, that the business license and permit fee and renewal term for mobile food vending is in the amount of Fifty-Five Dollars (\$55.00) annually, and is hereby adopted and established as the business license and permit fee and renewal term for the Town of Gilbert, Arizona.

BE IT FURTHER RESOLVED that if any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

BE IT FURTHER RESOLVED that the fees set forth in this Resolution shall be effective at 12:01 a.m. on March 2, 2014.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF
GILBERT, ARIZONA THIS ____ DAY OF _____, 20__.

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

John W. Lewis, Mayor

ATTEST:

Catherine Templeton, Town Clerk

APPROVED AS TO FORM:

L. Michael Hamblin
Town Attorney

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE
AND CORRECT COPY OF THE RESOLUTION NO. _____ ADOPTED BY THE
COMMON COUNCIL OF THE TOWN OF GILBERT ON THE ____ DAY OF
_____, 201_, WAS POSTED IN FOUR PLACES ON THE ____ DAY OF
_____, 201_.

Catherine A. Templeton, Town Clerk



GILBERT FIRE PREVENTION DIVISION

REGULATION 12-104.1 MOBILE FOOD UNITS

Number:	12-104.1		
Subject:	Mobile Food Units		
Code:	2012 International Fire Code	Code Section:	104.1
Effective Date:	12/7/2013	Revision Date:	01/14/2104
Issued By:	Dan DuBois <i>Dan DuBois</i>		

SCOPE:

The 2012 International Fire Code authorizes the Fire Marshal to render interpretations of the fire code, to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. The purpose of this regulation is to clarify the rules and regulations regarding the requirements for Mobile Food Units.

GENERAL:

Mobile Food Unit Requirements:

- Every Mobile Food Unit is required to have a Town of Gilbert Business License and/or a Town of Gilbert Transient Merchant License, or Mobile Food Vending License.
- All units shall have a current Maricopa County Environmental Health Code Permit which must be clearly visible from the rear exterior of the vehicle. In addition, the permit to operate must be maintained with the vehicle at all times. All units shall be in full compliance with the Maricopa County Environmental Health Code and all other applicable regulations.
- All units must have a Type K (1.5 gallon) and a 2A:10BC fire extinguisher.
- Commercial cooking or display equipment which produces smoke, steam, grease, mists, particulate matter, condensation, vapors, fumes, odors, or create a sanitation or indoor air quality problems shall have a hood that complies with the latest International Mechanical Code.
- All hoods, vents and filters shall be maintained and kept clean.
- All units with an automatic fire-extinguishing system shall have a current service tag. (All systems are required to be serviced every six months).
- Placement of all mobile food units shall meet the following separation distances:
 - a) Mobile Units without a fire suppression system must be separated by a minimum of ten feet (bumper to bumper or side to side from structures, property lines, combustible material and other Mobile Food Units).
 - b) Mobile Units with a fire suppression system have no separation distance requirement.

**TOWN OF GILBERT
NOTICE OF PROPOSED
NEW OR INCREASED TAX OR FEE**

Pursuant to A.R.S. § 9-499.15, the Town of Gilbert, Arizona ("Gilbert") hereby gives notice that it may adopt an ordinance/resolution to impose a new or increased tax or fee on businesses. Specifically the Optional After-Hours Service Fee as follows:

Mobile Food Vending License	\$55
(intended to recoup Town costs associated with the processing of mobile food vending license applications)	

The Gilbert Town Council will consider this matter at its regular Town Council meeting to be held at the Gilbert Town Council Chambers, located at 50 East Civic Center Drive, Gilbert, Arizona 85296, on January 30, 2014 at 7:00 p.m. Following such consideration, the Town Council may approve, disapprove or modify said ordinance/resolution.

DATE POSTED ON GILBERT WEBSITE: November 27, 2013

Gilbert Town Clerk

Catherine A. Templeton